

## **DETAILED ACTION**

### ***Application Status***

1. Applicant's response to the office action mailed March 25, 2008 on June 26, 2008 has been received and entered.
2. Claims 1-61 have been canceled. Claims 62-70 have been added. Claims 62-70 are pending. Claims 62-64 and are under examination. Claims 65-70 are withdrawn from further consideration pursuant to 37 CFR 1.12(b), as being drawn to a non-elected invention, there being no allowable generic or linking claim. An examination on the merits has been given to a transformed host cell that comprises SEQ ID NOS:1-3. The claims as amended now encompasses SEQ ID NOS:26-47 for example, said structures would have been subjected to a restriction requirement had they been presented at the time of filing. Thus, the claims are withdrawn.

### ***Claim Objection***

3. Claims 62 are objected to because of the following informalities:  
Claim 62 is objected to because the word "albicidin" is not in italics.  
Correction is required.

***Claim Rejections - 35 USC 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 63-64 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter, which applicant (s) regard as their invention.

Claims 63-64 are incomplete and indefinite because the claims depend from a canceled claim.

***Response to Arguments***

5. The response filed has been considered in full. Note that the rejection of record have been withdrawn, however, note that a new ground of rejection has been instituted based on applicant's amendments to the claims. Applicant's arguments will not be addressed herein as they are moot in view of the withdrawn rejections.

6. Applicant's amendment necessitated the new/modified ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday from 9:00 a.m. to 6:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nashaat Nashed, can be reached at (571) 272-0934. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Primary Examiner, Art Unit 1652